UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

DEBORAH DONOGHUE,

Plaintiff,

V.

ECOSPHERE TECHNOLOGIES, INC., : Case No.: 16-cv-09115-RA

> Nominal Defendant, : ECF Case

and

WILLIAM O. BRISBEN, and BRISBEN WATER SOLUTIONS, LLC,

Defendants.

DEFENDANTS WILLIAM O. BRISBEN'S AND BRISBEN WATER SOLUTIONS, LLC'S NOTICE OF MOTION TO DISMISS FOR IMPROPER VENUE UNDER 15 U.S.C. § 78aa OR,

IN THE ALTERNATIVE,

MOTION TO TRANSFER THIS ACTION TO THE SOUTHERN DISTRICT OF FLORIDA UNDER 28 U.S.C. § 1404

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, dated January 27, 2017; and upon the Affidavit of William O. Brisben, dated January 24, 2017, and the exhibits annexed thereto, Defendants William O. Brisben ("Mr. Brisben") and Brisben Water Solutions, LLC ("Brisben Water") (collectively, the "Brisben Defendants") will move this Court before the Honorable Ronnie Abrams, United States District Judge, at the United States Courthouse, located at 40 Foley Square, New York, NY 10007-1312, at a date and time to be set by the Court, for an Order pursuant to Federal Rule of Civil Procedure 12(b)(3) dismissing the Complaint filed by Deborah Donoghue ("Plaintiff") on November 23, 2016 ("Compl.") (ECF No. 3), for improper venue under 15 U.S.C. § 78aa; or, in the alternative, for an Order transferring this action to the Southern District of Florida under 28 U.S.C. § 1404.

Dated: New York, NY January 27, 2017 HOGAN LOVELLS US LLP

By: /s/ Dennis H. Tracey, III

Dennis H. Tracey, III

Derek Musa

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Attorneys for Defendants William O. Brisben and Brisben Water Solutions, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been duly served upon the following by the Court's CM/ECF E-Filing System this 27th day of January, 2017:

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Attorney for Plaintiff

Attorney for Plaintiff

/s/ Dennis H. Tracey, III
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